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 PATRICK PIERCE

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

PATRICK PIERCE,

 Plaintiff,

 v.
 WELLS FARGO BANK,
 and DOES 1 through 20,

 Defendants.

CASE NO. C08-01554 JF (HRL)

**PIERCE'S EVIDENTIAL
 OBJECTIONS TO, AND MOTION
 TO STRIKE: (1) DECLARATION
 OF GREG RICHARDSON; AND
 (2) ERRATA OF WELLS FARGO
 BANK**

Date: June 27, 2008
 Time: 9.00 a.m.
 Place: Courtroom 3, 5th Floor
 Judge: Hon. Jeremy Fogel

PLEASE TAKE NOTICE THAT plaintiff Patrick Pierce ("Pierce") hereby objects to the
 admissibility of the following portions of the declaration of Greg J. Richardson dated June 6, 2008
 (the "June Richardson Declaration"), and the following portions of and exhibits to the Errata To
 Defendant Wells Fargo Bank, N.A.'s Opposition to Plaintiff's Motion for Remand:

Objectionable Content

Grounds for Objection

June Richardson Declaration, Paragraph 2:
 Allegation that Exhibit 1 is a true copy the
 Greater Bay Bancorp Change in Control Plan
 ("CIC Plan"), and the allegation that Exhibit 1 is
 the plan referred to in the complaint.

Lack of personal knowledge, and hearsay
 (Federal Rules of Evidence 602 and 802):

 1. There is no foundation laid upon which Mr.
 Richardson, as outside counsel for defendant,
 would have personal knowledge of the
 authenticity of defendant's internal corporate
 records. Further, the document is not made
 admissible as a hearsay exception under Rule
 803(6), because the referenced document is not

1	<u>Objectionable Content</u>	<u>Grounds for Objection</u>
2		a memorandum, report, etc. of acts, events, conditions, etc. that was made at or near the time of the acts, nor does it meet the other requirements of the exception. Indeed, it is counter-intuitive to suggest that an outside law firm might regularly maintain defendant Wells Fargo Bank's business records as part of the law firm's own records.
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7		2. There is also no possible basis upon which Mr. Richardson could have personal knowledge of what change in control plan Pierce was referring to in his complaint. As Pierce explains in his declaration filed herewith, there were apparently three versions of a change in control plan in existence when he filed his complaint, of which Pierce knew of two. Exhibit 1 was not a plan that Pierce was even aware of at the time the complaint was filed.
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12	June Richardson Declaration, Paragraph 3: Allegation that letter from Wells Fargo Bank was sent to Pierce, and authenticity of exhibit itself.	Lack of personal knowledge, and hearsay (Federal Rules of Evidence 602 and 802): There is no possible basis upon which Mr. Richardson, as outside counsel for Wells Fargo Bank could have personal knowledge of the fact that Exhibit 2 is a true copy of a letter from Ms. Johnson to Pierce.
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16	June Richardson Declaration, Paragraph 4: Allegation that plan and letter are business records of Orrick, Herringon & Sutcliffe.	Lack of personal knowledge, and hearsay (Federal Rules of Evidence 602 and 802): There is no foundation laid upon which an independent law firm would be a repository of the records of regularly conducted activity of Wells Fargo Bank. Thus, the documents are not made admissible as a hearsay exception under Rule 803(6), because the referenced documents are not a memorandum, report, etc. of acts, events, conditions, etc. that was made at or near the time of the acts, nor does it meet the other requirements of the exception. Indeed, it is counter-intuitive to suggest that an outside law firm might regularly maintain defendant Wells Fargo Bank's business records as part of the law firm's own records.
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25	FURTHER TAKE NOTICE THAT Pierce objects to the Errata on the grounds that an unsworn document has no evidential value at all, since it is not a recognized method of introducing evidence in motion proceedings or any other proceedings. Moreover, even if the Errata had been	
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1 verified under penalty of perjury, its content and attachments would be inadmissible on the grounds
2 stated above with respect to the June Richardson Declaration.

3 Pierce accordingly requests that the objectionable content be ordered stricken from the
4 record.

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6 Dated: June 13, 2008

CARR & FERRELL *LLP*



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8 By: _____

9 STUART C. CLARK
10 CHRISTINE S. WATSON

11 Attorneys for Plaintiff
12 PATRICK PIERCE
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